

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA

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v.

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CRIMINAL NO. 21-00142-JB

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**KARTARIUS DEWAN JOHNSON, aka
TAREEQ AKHIL ANAD**

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**UNITED STATES' MOTION TO STRIKE
ERRONEOUS, IMMATERIAL TEXT FROM INDICTMENT**

The United States, by and through Sean P. Costello, the United States Attorney for the Southern District of Alabama, respectfully submits this notice and memorandum of law regarding a minor error in the indictment of defendant Kartarius Dewan Johnson, aka Tareeq Akhil Anad (“Johnson”). The United States moves to strike the erroneous, immaterial text from the indictment.

The first introductory paragraph of the indictment alleges that, at times material to the indictment, certain banks, including Hancock Whitney Bank (“Hancock”), BBVA USA (“BBVA”), and JPMorgan Chase Bank, N.A. (“JPMorgan”) had branches in the Southern District of Alabama. Doc. 1, ¶ 1, PageID.1. That is an error. In fact, all of the banks have branches *in Alabama*, but JPMorgan’s branches are in the Northern and Middle Districts. The sentence is rendered correct if the words “the Southern District of” are removed. The United States respectfully requests that the Court strike those four words in the indictment provided to the jury during its deliberations. A proposed redacted version of the indictment is attached hereto as Exhibit 1.

The above-referenced text—which, once stricken, renders the sentence factually accurate—is immaterial. Its removal would have no impact of the adequacy of the indictment. The indictment alleges that Johnson committed material acts in the Southern District of Alabama in connection with each of the banks—whether or not they were located in the District.

As to Hancock, the indictment alleges that Johnson, “in the Southern District of Alabama . . . and elsewhere,” “corresponded with representatives of Hancock.” Doc. 1, PageID.2–3. The indictment further alleges that Johnson “mailed packages in interstate commerce to Hancock.” *Id.*, PageID.3. The evidence adduced at trial has confirmed that those actions, and numerous other related to Johnson’s scheme to defraud Hancock and others, occurred in the Southern District of Alabama.

As to BBVA, the indictment alleges that Johnson, “in the Southern District of Alabama . . . and elsewhere,” “knowingly transferred, possessed, and used, without lawful authority, a means of identification of another person, namely, a social security number,” while committing a violation of 18 U.S.C. § 1344(2). *Id.*, PageID.7. The indictment alleges that Johnson used a social security number belonging to another person to open an account at BBVA. *Id.*, PageID.8. Again, the trial evidence has confirmed that those actions occurred in the Southern District of Alabama.

Finally, as to JPMorgan, the indictment alleges that Johnson, “in the Southern District of Alabama . . . and elsewhere,” “devise[d] a scheme and artifice to defraud JPMorgan.” *Id.*, PageID.4. The indictment alleges that Johnson opened accounts, wrote checks, and mailed packages to advance the scheme to defraud JPMorgan and others. *Id.*, PageID.5. It further alleges that Johnson used a social security number belonging to another person to open accounts at JPMorgan. *Id.*, PageID.8. Once again, the trial evidence has shown that those actions, and numerous other related to Johnson’s scheme to defraud JPMorgan and commit aggravated identity theft, occurred in the Southern District of Alabama.

Because the indictment adequately alleges that Johnson engaged in illegal acts in the Southern District of Alabama in furtherance of his fraud schemes with respect to each bank, it is immaterial whether the banks had branches located in the District. *See, e.g., United States v.*

Ebersole, 411 F.3d 517, 527 (4th Cir. 2005) (“[W]ire fraud [is] a ‘continuing offense,’ as defined in 18 U.S.C. § 3237(a), [and is] properly tried in any district where a . . . wire communication was transmitted in furtherance of [the] fraud scheme.” (quoting *United States v. Kim*, 246 F.3d 186, 191 (2d Cir. 2001))); *United States v. Breitweiser*, 357 F.3d 1249, 1253 (11th Cir. 2004) (“The ‘*locus delicti* [of a crime] must be determined from the nature of the crime alleged and the location of the act or acts constituting it.” (alteration in original) (quoting *United States v. Rodriguez-Moreno*, 526 U.S. 275, 279 (1999))). Even if the last clause of the first paragraph of the indictment was stricken, or the jury found it to be false, it could still find Johnson guilty based on the remaining allegations of the indictment, which adequately give Johnson notice of the alleged criminal acts and their location, and which properly make out venue in this District. *See United States v. Stickle*, 454 F.3d 1265, 1273 (11th Cir. 2006) (“[W]hen proving a non-essential element of a crime, like venue, the government need only meet the preponderance of evidence standard.”).

An amendment to an indictment occurs when the document’s charging terms are altered. *United States v. Dennis*, 237 F.3d 1295, 1299 (11th Cir. 2001). Mere surplusage, however, may be removed from an indictment without error. *United States v. Miller*, 471 U.S. 130, 141 (1985). Indictments may also be amended to correct misnomers. *E.g.*, *United States v. Johnson*, 741 F.2d 1338 (11th Cir. 1984) (upholding amendment of indictment during course of trial to state “Federal Savings and Loan Insurance Corporation” instead of “Federal Deposit Insurance Corporation”).

The United States acknowledges the error in the indictment regarding the location of JPMorgan’s branches. Because the error is immaterial, however, and in the interest of correcting that error before the jury’s deliberations, the United States respectfully requests that the Court

strike the four words “the Southern District of” from the indictment’s first introductory paragraph, as reflected in Exhibit 1 to this pleading.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 11, 2023, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to standby counsel for the defendant. I will also provide a copy of foregoing by hand delivery to the defendant when trial resumes on April 12, 2023.

/s/ Justin D. Roller

Justin D. Roller
Assistant United States Attorney

/s/ Sinan Kalayoglu

Sinan Kalayoglu
Trial Attorney

/s/ Shai Bronshtein

Shai Bronshtein
Trial Attorney

EXHIBIT 1

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SK / JDR

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA

v.

KARTARIUS DEWAN JOHNSON, aka
TAREEQ AKHIL ANAD

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CRIM. NO. 21-00142-TFM
USAO NO. 20R00374

VIOLATIONS: 18 USC § 1343
18 USC § 1014
18 USC § 1028A(a)(1)
18 USC § 1001(a)(2)

FILED IN OPEN COURT
AUG 26 2021
CHARLES R. DIARD, JR.
CLERK

INDICTMENT

THE GRAND JURY CHARGES:

INTRODUCTION

At times material to this Indictment:

1. Hancock Whitney Bank ("Hancock"), JPMorgan Chase Bank, N.A. ("JPMorgan"), and BBVA USA ("BBVA") were financial institutions within the meaning of Title 18, United States Code, Section 20, and had branches within [REDACTED] Alabama.

2. "Company 1" was a vehicle dealership in Mobile, Alabama. "Company 2" was a vehicle dealership in Beverly Hills, California. "Company 3" was a vehicle dealership in Scottsdale, Arizona. The Grand Jury knows the actual names of Company 1, Company 2, and Company 3.

3. "Person 1" and "Person 2" owned certain real property in Daphne, Alabama (the "Real Property"). The Grand Jury knows the actual names of Person 1 and Person 2, and the address of the Real Property.

4. "L.J." and "H.S." were two individuals whose full names are known to the Grand Jury.

5. As part of the United States' response to the economic downturn caused by the COVID-19 pandemic, the U.S. Small Business Administration ("SBA") was authorized via the Coronavirus Aid, Relief, and Economic Security Act to make loans to afflicted businesses. The SBA administered several programs that were designed to assist businesses to weather the COVID-19 pandemic, including the Economic Injury Disaster Loan ("EIDL") Program.

COUNTS ONE AND TWO
Wire Fraud
Title 18, United States Code, Section 1343

6. The allegations in paragraphs 1–3 of this Indictment are realleged for Counts One and Two as though fully set forth therein.

7. From in or about March 2020, and continuing to in or about October 2020, in the Southern District of Alabama, Southern Division, and elsewhere, the defendant,

KARTARIUS DEWAN JOHNSON, aka
TAREEQ AKHIL ANAD,

devised and intended to devise a scheme and artifice to defraud Hancock, Company 1, Person 1, and Person 2, and to obtain money and property belonging to Hancock, Company 1, Person 1, and Person 2, by means of materially false and fraudulent pretenses, representations, and promises.

PURPOSE OF THE SCHEME AND ARTIFICE

8. The purpose of the scheme and artifice was for the defendant to enrich himself by seeking to divert to his personal benefit money and property belonging to Hancock, Company 1, Person 1, and Person 2.

MANNER AND MEANS OF THE SCHEME AND ARTIFICE

9. The defendant sought funding from Hancock to buy the Real Property and a luxury vehicle from Company 1 ("Vehicle 1"). The defendant periodically corresponded with

representatives of Hancock, Company 1, and various parties associated with Person 1 and Person 2, and the defendant's communications included materially false statements. Further, the defendant entered into a purchase agreement with Company 1 knowing he had insufficient funds to buy Vehicle 1, as well as a purchase agreement with Person 1 and Person 2 knowing he had insufficient funds to buy the Real Property. Moreover, the defendant mailed packages in interstate commerce to Hancock. Inside the packages were documents containing materially false statements. One package contained a fictitious "Private Setoff Bond" that demanded payment from Hancock.

THE WIRE COMMUNICATIONS

10. The allegations in paragraphs 6–9 of this Indictment are realleged and incorporated as though fully set forth here.

11. On or about the dates listed below, in the Southern District of Alabama, Southern Division, and elsewhere, the defendant,

KARTARIUS DEWAN JOHNSON, aka TAREEQ AKHIL ANAD,

for the purpose of executing the above-described scheme and artifice to defraud, and attempting to do so, did cause to be transmitted in interstate commerce, by means of a wire communication, certain signs and signals; that is, on or about the dates listed below, the defendant caused an interstate wire communication between Alabama and another state as described below for each count.

<u>Count</u>	<u>Date (on or about)</u>	<u>Wire communication</u>
1	April 23, 2020	The defendant emailed a representative of Company 1 regarding the purchase of Vehicle 1.
2	April 30, 2020	The defendant emailed a representative of Hancock and two other persons regarding the purchase of the Real Property.

In violation of Title 18, United States Code, Section 1343.

COUNTS THREE AND FOUR
Wire Fraud
Title 18, United States Code, Section 1343

12. The allegations in paragraphs 1 and 2 of this Indictment are realleged for Counts Three and Four as though fully set forth therein.

13. From in or about October 2020, and continuing to in or about January 2021, in the Southern District of Alabama, Southern Division, and elsewhere, the defendant,

KARTARIUS DEWAN JOHNSON, aka
TAREEQ AKHIL ANAD,

devised and intended to devise a scheme and artifice to defraud JPMorgan, Company 2, and Company 3, and to obtain money and property belonging to JPMorgan, Company 2, and Company 3, by means of materially false and fraudulent pretenses, representations, and promises.

PURPOSE OF THE SCHEME AND ARTIFICE

14. The purpose of the scheme and artifice was for the defendant to enrich himself by seeking to divert to his personal benefit money and property belonging to JPMorgan, Company 2, and Company 3.

MANNER AND MEANS OF THE SCHEME AND ARTIFICE

15. The defendant opened bank accounts at JPMorgan to buy a luxury vehicle from Company 2 (“Vehicle 2”) and a luxury vehicle from Company 3 (“Vehicle 3”). The defendant opened these accounts through materially false representations to JPMorgan, including by knowingly using, without lawful authority, a social security number of another person. At various times, the defendant used JPMorgan bank accounts to deposit funds, write checks, and make other financial transactions. The defendant periodically corresponded with representatives of JPMorgan, Company 2, and Company 3, and his communications included materially false statements. Further, the defendant entered into a purchase agreement with Company 2 knowing he had insufficient funds to buy Vehicle 2, as well as a purchase agreement with Company 3 knowing he had insufficient funds to buy Vehicle 3. Moreover, the defendant mailed packages in interstate commerce to Company 2 and Company 3. Inside the packages were fraudulent checks that the defendant had drafted to buy Vehicle 2 and Vehicle 3.

THE WIRE COMMUNICATIONS

16. The allegations in paragraphs 12–15 of this Indictment are realleged and incorporated as though fully set forth here.

17. On or about the dates listed below, in the Southern District of Alabama, Southern Division, and elsewhere, the defendant,

**KARTARIUS DEWAN JOHNSON, aka
TAREEQ AKHIL ANAD,**

for the purpose of executing the above-described scheme and artifice to defraud, and attempting to do so, did cause to be transmitted in interstate commerce, by means of a wire communication, certain signs and signals; that is, on or about the dates listed below, the defendant caused an

interstate wire communication between Alabama and another state as described below for each count.

<u>Count</u>	<u>Date (on or about)</u>	<u>Wire communication</u>
3	November 25, 2020	The defendant emailed a representative of Company 2 regarding the purchase of Vehicle 2.
4	November 27, 2020	The defendant emailed a representative of Company 3 regarding the purchase of Vehicle 3.

In violation of Title 18, United States Code, Section 1343.

COUNTS FIVE THROUGH EIGHT
False Statements to Small Business Administration
Title 18, United States Code, Section 1014

18. The allegations in paragraphs 4 and 5 of this Indictment are realleged for Counts Five through Eight as though fully set forth therein.

19. On or about the dates listed below, in the Southern District of Alabama, Southern Division, and elsewhere, the defendant,

KARTARIUS DEWAN JOHNSON, aka
TAREEQ AKHIL ANAD,

knowingly made a false statement and report for the purpose of influencing the action of the SBA in connection with a provision of the Small Business Investment Act of 1958, upon an application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, and loan. The defendant prepared false EIDL applications and submitted them to the SBA to obtain SBA funds. Under his name in the EIDL applications described below, the defendant listed another person's social security number instead of his own social security number, to-wit:

<u>Count</u>	<u>Date (on or about)</u>	<u>False statement</u>
5	October 15, 2020	Under his name in EIDL application x3256, the defendant listed the social security number of H.S. and not his own.
6	October 15, 2020	Under his name in EIDL application x2320, the defendant listed the social security number of H.S. and not his own.
7	October 15, 2020	Under his name in EIDL application x2695, the defendant listed the social security number of H.S. and not his own.
8	January 8, 2021	Under his name in EIDL application x2574, the defendant listed the social security number of L.J. and not his own.

In violation of Title 18, United States Code, Section 1014.

COUNTS NINE THROUGH ELEVEN

Aggravated Identity Theft

Title 18, United States Code, Section 1028A(a)(1)

20. The allegations in paragraphs 12–17 of this Indictment are realleged for Counts Nine through Eleven as though fully set forth therein.

21. On or about the dates listed below, in the Southern District of Alabama, Southern Division, and elsewhere, the defendant,

**KARTARIUS DEWAN JOHNSON, aka
TAREEQ AKHIL ANAD,**

during and in relation to a felony violation enumerated in Title 18, United States Code, Section 1028A(c)(5), namely, bank fraud in violation of Title 18, United States Code, Section 1344(2), knowingly transferred, possessed, and used, without lawful authority, a means of identification of another person, namely, a social security number, as described below.

<u>Count</u>	<u>Date (on or about)</u>	<u>Means of identification</u>
9	October 21, 2020	The defendant used the social security number of L.J. to open JPMorgan bank account x0751.
10	November 16, 2020	The defendant used the social security number of L.J. to open JPMorgan bank account x8792.
11	December 7, 2020	The defendant used the social security number of L.J. to open BBVA bank account x7858.

In violation of Title 18, United States Code, Section 1028A(a)(1).

COUNTS TWELVE THROUGH FIFTEEN
Aggravated Identity Theft
Title 18, United States Code, Section 1028A(a)(1)

22. The allegations in paragraphs 18 and 19 of this Indictment are realleged for Counts Twelve through Fifteen as though fully set forth therein.

23. On or about the dates listed below, in the Southern District of Alabama, Southern Division, and elsewhere, the defendant,

KARTARIUS DEWAN JOHNSON, aka
TAREEQ AKHIL ANAD,

during and in relation to a felony violation enumerated in Title 18, United States Code, Section 1028A(c)(5), namely, false statements to the SBA in violation of Title 18, United States Code, Section 1014 as alleged in Counts Five through Eight of this Indictment, knowingly transferred, possessed, and used, without lawful authority, a means of identification of another person, namely, a social security number, as described below.

<u>Count</u>	<u>Date (on or about)</u>	<u>Means of identification</u>
12	October 15, 2020	In EIDL application x3256, the defendant used the social security number of H.S.
13	October 15, 2020	In EIDL application x2320, the defendant used the social security number of H.S.
14	October 15, 2020	In EIDL application x2695, the defendant used the social security number of H.S.
15	January 8, 2021	In EIDL application x2574, the defendant used the social security number of L.J.

In violation of Title 18, United States Code, Section 1028A(a)(1).

COUNT SIXTEEN
False Statement to a Federal Agency
Title 18, United States Code, Section 1001(a)(2)

24. In or about September 2020, in the Southern District of Alabama, Southern Division, and elsewhere, the defendant,

KARTARIUS DEWAN JOHNSON, aka
TAREEQ AKHIL ANAD,

knowingly and willfully made a materially false, fictitious, and fraudulent statement and representation in a matter within the jurisdiction of the executive branch of the Government of the United States, namely, the Social Security Administration (“SSA”). The defendant completed Form SS-5 (“Application for a Social Security Card”) and submitted it and other documents to the SSA. Question 5 on the form required the defendant to identify his citizenship, to which he responded “Other” rather than “U.S. Citizen.” This statement was false because, as the defendant

there and then knew, he was in fact a U.S. citizen by birth who was residing in the Southern District of Alabama and who had not formally renounced his U.S. citizenship under the provisions of the Immigration and Nationality Act.

In violation of Title 18, United States Code, Section 1001(a)(2).

FORFEITURE NOTICE

Title 18, United States Code, Sections 981(a)(1)(C) and 982(a)(2)(A)

25. The allegations in Paragraphs 1–23 of this Indictment are realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and 982(a)(2)(A), Title 21, United States Code, Section 853, and Title 28, United States Code, Section 2461(c).

26. Upon conviction of the offenses set forth in Counts One through Fifteen of this Indictment, the defendant shall forfeit to the United States of America, pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and 982(a)(2)(A), any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of such violations.

27. If any of the property described above, because of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

All pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and 982(a)(2)(A), and Title 28, United States Code, Section 2461(c).

A TRUE BILL

FOREMAN UNITED STATES GRAND JURY
SOUTHERN DISTRICT OF ALABAMA

SEAN P. COSTELLO
UNITED STATES ATTORNEY



SINAN KALAYOGLU
Assistant United States Attorney



JUSTIN D. ROLLER
Assistant United States Attorney



SEAN P. COSTELLO
Chief, Criminal Division

AUGUST 2021